

Entry No. 104319

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Abstracted

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State of Utah )  
 County of Carbon) ss  
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Ann O'Brien  
 COUNTY RECORDER

IN THE DISTRICT COURT IN AND FOR CARBON COUNTY, STATE OF UTAH

ALLRED DITCH COMPANY, a corporation,  
 BRYNER-HANSEN DITCH COMPANY, a corporation,  
 PIONEER DITCH COMPANY NO. 1, a corporation,  
 PIONEER WATER COMPANY, NO. 2, a corporation  
 PRICE WATER COMPANY, a corporation, SPRING  
 GLEN CANAL COMPANY, a corporation, STOWELL  
 MUTUAL WATER & CANAL COMPANY, a corporation,  
 WELLINGTON CANAL COMPANY, a corporation,  
 BRYNER-FOUTZ DITCH COMPANY, an association,  
 and GAY DITCH COMPANY, an association,

Plaintiffs,

vs.

WAYNE D. CRIDDLE, as State Engineer of the  
 State of Utah, HUBERT C. LAMBERT, as Deputy  
 State Engineer of the State of Utah, HARVEY  
 THOMAS, as Price River Water Commissioner,  
 and CARBON CANAL COMPANY, a corporation,

Defendants,

and

UTAH POWER & LIGHT COMPANY, a corporation,  
 INDEPENDENT COAL & COKE COMPANY, a corporation,  
 PRICE CITY, a municipal corporation,  
 HELPER CITY, a municipal corporation,  
 PRICE RIVER WATER USERS ASSOCIATION, a  
 corporation, and UNITED STATES STEEL  
 CORPORATION, a corporation,

Interpleaded Defendants.

Civil No. 8219

JUDGMENT

This matter came on regularly for trial before the above entitled Court, sitting without a jury, on the 17th day of January, 1961, the Honorable F. W. Keller, District Judge, presiding. The trial of this cause was continued until the 18th day of January, 1961, at which time the parties hereto agreed upon a settlement of all of the issues herein and by the through their respective counsel made and entered into a stipulation in open court for Judgment and waiver of Findings of Fact and Conclusions of Law. The plaintiffs and each of them appeared and were represented by their counsel, Stanley V. Litizette of Helper, Utah, and

Joseph Novak of Salt Lake City, Utah; defendants Wayne D. Criddle as State Engineer, Hubert C. Lambert as Deputy State Engineer and Harvey Thomas as Price River Water Commissioner, appeared and were represented by their counsel, Richard R. Boyle, Assistant Attorney General, of Salt Lake City, Utah; defendant Carbon Canal Company appeared and was represented by its counsel, E. J. Skeen, of Salt Lake City, Utah; defendant and interpleader Utah Power & Light Company appeared and was represented by its counsel, Robert B. Porter, of Salt Lake City, Utah; defendant and interpleader Independent Coal & Coke Company appeared and was represented by Robert B. Porter for and in behalf of its counsel, Bryce E. Roe, of Salt Lake City, Utah; defendant and interpleader Price City appeared and was represented by its counsel, Luke G. Pappas, of Price, Utah; defendant and interpleader Helper City appeared and was represented by Luke G. Pappas for and in behalf of its counsel, Thorit Hatch, of Helper, Utah; defendant and interpleader Price River Water Users Association appeared and was represented by its counsel, Duane A. Frandsen, of Price, Utah; and defendant and interpleader United States Steel Corporation appeared and was represented by its counsel, Calvin A. Behle, of Salt Lake City, Utah. The Court having heard the stipulation made and entered in open Court and having fully considered the same and being fully advised in the premises now makes and enters Judgment as follows:

1. That under the provisions of Paragraph III of the Supplemental Decree dated May 6, 1910, made and entered by C. W. Morse, District Judge of the above entitled Court, in that certain action entitled "The Tidwell Canal Company, a corporation, et al, plaintiffs, v. The Pioneer Ditch Company No. 1, et al, defendants," being Civil No. 223, the above named plaintiffs are entitled, and they are hereby awarded rights to the use of the natural flow waters of the Price River and its tributaries and hereinafter provided in addition to the rights awarded to them and their predecessors in interest under the Decree dated December 18, 1902 made and entered by the said C. W. Morse, District Judge, as amended by Order Correcting Decree, dated November 28, 1904, made and entered by the said C. W. Morse, District Judge, in the same title and cause.

2. That the first eighty (80) cubic feet per second of the natural flow waters of the Price River and its tributaries in excess of the quantities of flow of water necessary to satisfy in full all of the rights awarded under the said decree dated December 18, 1902, as amended by Order Correcting Decree dated November 28, 1904, shall be divided on equal priorities between the above named plaintiffs collectively on one hand, and Carbon Canal Company and Utah Power and Light Company on the other hand on the basis of forty (40) percent to the said plaintiffs collectively and sixty (60) percent to Carbon Canal Company and Utah Power and Light Company. The said sixty (60) percent shall be distributed to the Carbon Canal Company and Utah Power & Light Company in accordance with their rights initiated by Application No. 1036 and evidenced by Certificate of Appropriation No. 2080 and Certificate of Change No. a 289 as their respective interests may appear and in accordance with the agreement dated May 8, 1956, between the Carbon Canal Company and Utah Power & Light Company on file in the office of the State Engineer.

3. That as among the plaintiffs herein the forty (40) percent of the said first eighty (80) cubic feet per second of water awarded collectively to them in the next preceding paragraph 2 shall be divided on equal priorities among the plaintiffs as follows:

|                              |                |
|------------------------------|----------------|
| Allred Ditch Company         | 13.625 percent |
| Pioneer Ditch Company No. 1  | 13.906 percent |
| Pioneer Water Company No. 2  | 11.937 percent |
| Price Water Company          | 11.094 percent |
| Wellington Canal Company     | 13.344 percent |
| Spring Glen Canal Company    | 13.906 percent |
| Stowell Mutual Water Company | 7.531 percent  |
| Bryner-Plouts Ditch Company  | 6.094 percent  |
| Bryner-Hansen Ditch Company  | 4.125 percent  |
| Gay Ditch Company            | 4.438 percent  |

4. The sixty (60) percent of the eighty (80) cubic feet per second of water awarded to the Carbon Canal Company and the Utah Power & Light Company by paragraph 2 hereof constitutes a portion of the water certificated to said parties under Certificate of Appropriation No. 2080 and Certificate of Change No. a-290; that the next call on the natural flow waters of the Price River and its tributaries shall be for a flow of water sufficient to satisfy the remaining rights under Certificate No. 2080 and

Certificate of Change No. a-289; that the next call on the waters of the Price River and its tributaries shall be the rights of the Price River Water Users Association initiated by Application No. 1035 and evidenced by Certificate of Appropriation No. 2046; and thereafter all other existing rights to the use of the said waters of the Price and its tributaries shall be satisfied in the order of their respective priorities.

5. That the natural flow waters of the Price River and its tributaries in excess of the quantities of flow necessary to satisfy all existing water rights from the Price River and its tributaries, including those water rights evidenced by Applications filed with the State Engineer prior to the date hereof, whether approved or unapproved, shall be divided on equal priorities among the following parties to the extent of the carrying capacities of their respective canals as follows:

|                              |   |                    |
|------------------------------|---|--------------------|
| Allred Ditch Company         | ) |                    |
| Pioneer Ditch Company No. 1  | ) |                    |
| Pioneer Water Company No. 2  | ) | 17 1/4 second feet |
| Price Water Company          | ) |                    |
| Wellington Canal Company     | ) |                    |
|                              |   |                    |
| Spring Glen Canal Company    |   | 36 second feet     |
| Stowell Mutual Water Company |   | 11 second feet     |
| Bryner-Ploutz Ditch Company  |   | 8 second feet      |
| Bryner-Hansen Ditch Company  |   | 5 second feet      |
| Gay Ditch Company            |   | 7 second feet      |
| Carbon Canal Company         |   | 259 second feet    |

That as among the plaintiffs Allred Ditch Company, Pioneer Ditch Company No. 1, Pioneer Water Company No. 2, Price Water Company and Wellington Canal Company the said 17 1/4 second feet herein provided for shall be divided on equal priorities as follows:

|                             |                |
|-----------------------------|----------------|
| Allred Ditch Company        | 21.320 percent |
| Pioneer Ditch Company No. 1 | 21.760 percent |
| Pioneer Water Company No. 2 | 18.679 percent |
| Price Water Company         | 17.360 percent |
| Wellington Canal Company    | 20.881 percent |

6. That the Price River Water Commissioner shall distribute the waters of the Price River and its tributaries covered by this Judgment between and among the parties to this action as hereinabove set forth.

7. That each party shall bear his own costs.

Dated this 14th day of July, 1961.

BY THE COURT

/s/ F. W. Keller

F.W. KELLER  
District Judge

